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ELLIOTT & ELLIOTT, P.A.  
ATTORNEYS AT LAW  
721 OLIVE STREET  
COLUMBIA, SOUTH CAROLINA 29205  
[selliott@elliottlaw.us](mailto:selliott@elliottlaw.us)

SCOTT ELLIOTT

TELEPHONE (803) 771-0555  
FACSIMILE (803) 771-8010

January 30, 2009

VIA HAND DELIVERY

Mr. Charles L.A. Terreni  
Chief Clerk of the Commission  
SC Public Service Commission  
P. O. Drawer 11649  
Columbia, SC 29211

RECEIVED  
SC PUBLIC SERVICE  
COMMISSION  
JAN 31 2009

RE: Combined Application of South Carolina Electric & Gas Company for a Certificate of Environmental Compatibility and Public Convenience and Necessity and for a Base Load Review Order for the Construction and Operation of a Nuclear Facility at Jenkinsville, South Carolina  
Docket No. 2008-196-E

Dear Mr. Terreni:

Enclosed please find the original and ten (10) copies of a **Memorandum of the South Carolina Energy Users Committee** in the above referenced docket. I have enclosed an extra copy of the brief which I would ask you to date stamp and return to me in the stamped self-addressed envelope enclosed. By copy of this letter, I am serving all parties of record.

If you have any questions, please do not hesitate to contact me.

Sincerely,

ELLIOTT & ELLIOTT, P.A.

  
Scott Elliott

SE/jcl

Enclosures

cc: Parties of record w/enclosures

STATE OF SOUTH CAROLINA

(Caption of Case)

Combined Application of South Carolina Electric & Gas Co. for a Certificate of Environmental Compatibility and Public Convenience and Necessity and for a Base Load Review Order for the Construction and Operation of a Nuclear Facility at Jenkinsville, SC

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: 2008 - 196 - E

(Please type or print)

Submitted by: Scott Elliott

SC Bar Number: 1872

Address: 721 Olive Street

Telephone: 803-771-0555

Columbia, SC 29205

Fax: 803-771-8010

Other: \_\_\_\_\_

Email: sellott@elliottlaw.us

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

- ☐ Emergency Relief demanded in petition      ☐ Request for item to be placed on Commission's Agenda expeditiously
- ☐ Other: \_\_\_\_\_

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)			
<input checked="" type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request	
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification	
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation	
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement	
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment	
<input type="checkbox"/> Electric/Water/Sewer	<input checked="" type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter	
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response	
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery	
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition	
<input type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation	
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena	
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff	
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other:	
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest		
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit		
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report		

ORIGINAL

STATE OF SOUTH CAROLINA  
BEFORE THE PUBLIC SERVICE COMMISSION

DOCKET NO. 2008-196-E

IN THE MATTER OF: )

Combined Application of South Carolina )  
Electric & Gas Company for Certificate )  
of Environmental Compatibility and Public )  
Convenience and Necessity and for a )  
Base Load Review Order for the )  
Construction and Operation of a Nuclear )  
Facility at Jenkinsville, South Carolina )

MEMORANDUM OF THE  
SOUTH CAROLINA ENERGY  
USERS COMMITTEE

The South Carolina Energy Users Committee, an Intervenor in the above docket (hereafter "SCEUC"), herewith submits its memorandum in connection with the Application of South Carolina Electric & Gas Company for a Base Load Review Order for the Construction and Operation of a Nuclear Facility at Jenkinsville, South Carolina.

**Introduction**

South Carolina Electric & Gas Company ("SCE&G" or "Applicant") has filed an Application with the South Carolina Public Service Commission ("Commission") requesting *inter alia* that the Commission issue a Certificate of Environmental Compatibility and Public Convenience and Necessity and a Base Load Review Order authorizing SCE&G to construct and operate two (2) nuclear generating plants.

The South Carolina Base Load Review Act, provides for the recovery of prudently incurred costs associated with new base load nuclear plants constructed by investor-owned electrical utilities. A base load review order means, "an order issued by the commission pursuant to Section 58-33-270 establishing that if a plant is constructed

in accordance with an approved construction schedule, approved capital costs estimates, and approved projections of in-service expenses, as defined herein, the plant is considered to be used and useful for utility purposes such that its capital costs are prudent utility costs and are properly included in rates.” Section 58-33-220(4). The Base Load Review Act further provides that a base load review order constitutes a final determination that a plant is used and useful for utility purposes and that its capital costs are prudent utility costs and are properly included in rates. So long as the plant is constructed in accordance with the approved schedules, estimates, and projections set forth by the Act, as adjusted by inflation indices set forth in the Act, the utility must be allowed to recover its capital costs related to the plant through revised rate filings or general rate proceedings. Section 58-33-275(A) and (C).

The Base Load Review Act requires that the commission base load review order include the following determinations relevant to the exposition herewith.

§ 58-33-270.

(A) After the hearing, the commission shall issue a base load review order approving rate recovery for plant capital costs if it determines:

- (1) that the utility’s decision to proceed with construction of the plant is prudent and reasonable considering the information available to the utility at the time;
- (2) for plants located in this State, that the utility has satisfied the requirements of Section 58-33-160 of the Utility Facility Siting and Environmental Protection Act, either in a past proceeding or in the current proceeding if the current proceeding is a combined proceeding; and

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(B) The base load review order shall establish:

- (1) the anticipated construction schedule for the plant including contingencies;

- (2) the anticipated components of capital costs and the anticipated schedule for incurring them, including specified contingencies;

\*\*\*

- (6) the inflation indices used by the utility for costs of plant construction, covering major cost components or groups of related cost components. Each utility shall provide its own indices, including: the source of the data for each index, if the source is external to the company, or the methodology for each index which is compiled from internal utility data, the method of computation of inflation from each index, a calculated overall weighted index for capital costs, and a five-year history of each index on an annual basis.

The Applicant seeks relief not afforded it under the Base Load Review Act.

Moreover, the Applicant has failed to meet its burden of proof in certain respects. For the reasons set out, SCEUC objects to certain aspects of the relief requested by the Applicant. This memorandum will address SCEUC's objections to the Application in the order set out in the language quoted from Section 58-33-270 immediately above.

#### **1. Applicant's Decision to Proceed with Construction**

The Base Load Review Act provides that this Commission must issue an order approving rate recovery for plant capital costs if it determines:

that the utility's decision to proceed with construction of the plant is prudent and reasonable considering the information available to the utility at the time;  
Section 58-33-270(A)(1).

SCEUC has raised no objection to the Applicant's decision to proceed with the construction of the nuclear plants in question.

#### **2. Utility Facility Siting and Environmental Protection Act**

The Commission shall issue a base load review order approving rate recovery for capital costs if it determines,

(2) for plants located in this State, that the utility has satisfied the requirements of Section 58-33-160 of the Utility Facility Siting and Environmental Protection Act either in a past proceeding or in the current proceeding if the current proceeding is a combined proceeding;

South Carolina Energy Users Committee has raised no objection to the Applicant's proof with respect to the requirements of the Utility Facility Siting and Environmental Protection Act.

However, SCE&G's Application fails to satisfy certain requirements of the Base Load Review Act with respect to its construction schedule contingencies, certain components of its proposed capital costs, and its schedule for incurring them.

### **3. Construction Schedule and Contingencies**

The Applicant has proposed a construction schedule that provides for substantial completion of the first unit in the first quarter of 2016; substantial completion for the second unit is anticipated in the first quarter of 2019. However, SCE&G requests that the Commission establish a 30 month schedule contingency applicable to all milestones reflected in its Exhibit E to the Application (Application, Paragraphs 8 and 9). The Applicant has provided no justification in this record for a 30 month contingency.

First, a brief discussion of the milestones set out in Exhibit E to the Application is in order. Exhibit E to the Application states on its face that the project milestones are based on a generic schedule which did not include project and site-specific requirements. Witness Byrne testified that the contractor, Stone & Webster, Inc. ("Stone & Webster") was to have updated the project milestones as of September 30, 2008, and that the Applicant would provide an updated site-specific construction milestones for this project (Byrne prefiled testimony at page 38, lines 9-12).

Although, the Applicant concedes that the project milestones would change as a result of the site-specific requirements, it has failed to provide this Commission with a site-specific milestone schedule.

Because there is no evidence of record modifying the construction milestones, SCEUC would submit that the Commission is forced to adopt the generic milestones set out in Exhibit E in the Application.

The Applicant assures the Commission that with a 30 month schedule contingency, the Applicant will be able to meet the generic milestones set out in Exhibit E and asks the Commission to adopt the admittedly flawed project milestones set out in Exhibit E as the construction schedule and schedule for payment of capital costs. However, the Applicant has provided no reason or justification for a 30 month contingency applicable to all milestones (Addison testimony at page 1187, lines 8-12; page 1188, lines 4-7).

While there exists evidence of record that a 30 month construction contingency is justified to accommodate delays in obtaining Federal regulatory approvals, the Applicant requests a 30 month construction contingency applicable to all milestones. A 30 month contingency could prolong completion until mid 2021. No Applicant witness offered a reason for a contingency of such length. Indeed, witness Byrne testified that once all licenses are issued, no substantial delays are anticipated. Moreover, a delay in meeting a milestone authorized by a 30 month contingency could delay a subsequent milestone prolonging completion by another 30 months. In reality, the 30 month contingency requested is no contingency at all.

A witness for the Office of Regulatory Staff (“ORS”) testified that a 15 month contingency period might be justified, but even the ORS witness conceded that a shorter period than 15 months may be equally justified. On this record, the Applicant fails to justify any contingency.

Accordingly, the Commission is forced to adopt the construction and payment schedule set out in Exhibit E to SCE&G’s Application and should the Commission grant the Applicant a construction schedule contingency, that the contingency period not exceed 15 months.

#### **4. Payment Schedule Including Specified Contingencies**

Under the Base Load Review Act, the base load review order shall establish:

...the anticipated components of capital costs and the anticipated schedule for incurring them, including specified contingencies; Section 58-33-270(B)(2)

The statute provides that the Applicant is entitled to establish specified contingencies for its anticipated payment schedule.

As stated above, the Applicant sets out its anticipated schedule for incurring its capital costs or payment schedule in Exhibit E to the Application. The Applicant requests that the Commission grant it a 30 month contingency extension of time to meet these capital cost payment milestones. The Applicant also requests that the Commission establish a capital cost contingency payment schedule permitting it to make capital cost payments up to 24 months ahead of schedule (Application, Paragraph 15).

In addition, SCE&G requests that the Commission approve certain amounts it identifies as “cost contingencies” (Application, Paragraph 14). The Applicant requests the Commission to approve the total amount of cost contingencies and permit it to use the



total amount over the life of the project to ensure compliance with its approved payment schedules.

As argued above, permitting the Applicant a 30 month contingency period to make its payments in compliance with the Base Load Review Act is not justified by the record. A 30 month construction or payment contingency extends the life of the project well beyond the first quarter of 2019. Moreover, to the extent that the Applicant is granted a 30 month contingency to meet one milestone, it would of necessity permit the Applicant an opportunity to extend some subsequent milestone by another 30 months. The 30 month payment contingency here becomes meaningless.

SCEUC sees no harm to permitting the Applicant to accelerate payments by 24 months if accomplished as set out in paragraph 15 of its Application.

As discussed subsequently, the Applicant requests approval of approximately \$570,903,000 in “cost contingencies” and for costs adjusted for inflation. These cost contingencies are not authorized under the Act. Please see Argument 6 “Contingency Costs” at Page 10. Moreover, permitting the Applicant to apply any lawfully authorized amounts related to inflation not incurred in a given year over the life of the project in essence provides the Applicant a 12 year contingency period. If Applicant’s contingency schedule is approved, the Applicant would be permitted to take certain funds authorized but not incurred in the year 2009 and apply these funds in the year 2019, well beyond the 30 months requested.

The statute provides that the Applicant is entitled to establish specified contingencies for its anticipated payment schedule. Section 58-33-270(B)(2). However, for reasons set out above, the Applicant has failed to establish any basis for a 30 month

contingency period for meeting its capital costs payment milestones. With the exception of the 24 month acceleration contingency period, the Applicant should be granted no contingency period.

## **5. Inflation Indices**

Under the Base Load Review Act, this Commission's order must establish:

(6) the inflation indices used by the utility for costs of plant construction, covering major cost components or groups of related cost components. Each utility shall provide its own indices, including: the source of the data for each index, if the source is external to the company, or the methodology for each index which is compiled from internal utility data, the method of computation of inflation from each index, a calculated overall weighted index for capital costs, and a five-year history of each index on an annual basis. Section 58-33-270(B)(6).

The Applicant requests that the Commission include in its base load review order capital costs including its total project costs measured in 2007 dollars, additional anticipated costs resulting from inflation as calculated by authorized inflation indices, certain additional costs associated with risk assumptions and certain additional costs increased by the contract. The Applicant asks too much of the Commission.

The Commission is a creature of statute and as such is possessed of only those powers which are specifically delineated by the General Assembly. *South Carolina Electric and Gas Company vs. Public Service Commission*, 275 SC 487, 272 SE 2d 793(1980). Under the Base Load Review Act, the utility is entitled to establish its components of capital costs including any amounts established by "the inflation indices used by the utility for costs of plant construction." Section 58-33-270(B)(6). Any other costs are outside the scope of the base load review order and may not be recovered under revised rates provided for by the Base Load Review Act.

The Base Load Review Act recognizes that the capital costs of a nuclear generating plant will increase over the construction period by virtue of inflation. So long as the plant is constructed in accordance with approved schedules, estimates and projections as adjusted by inflation, the Applicant may recover its capital costs related to the plant through revised rates. Section 58-33-275I. The Applicant has the burden of establishing its own inflation indices. The Applicant must demonstrate the methodology of computing or calculating the inflation, whether the index is external or internal, a calculated overall weighted index for capital costs and a five year history of each index on an annual basis. Here, the Applicant proposes to adjust the cost of certain of its major cost components using the Handy Whitman Index. The Handy Whitman Indices will be employed to adjust the following components: Firm with Indexed Adjustment, Actual Craft Wages, Non-labor Costs, Time & Materials, and Transmission Costs. (Please see Exhibit I to Application). The Applicant proposes to adjust Owners Costs Target Estimates using the gross domestic product chained price index historical average. Explanations of the Handy Whitman and GDP indices are found on page 3 of 3 of Exhibit I to the Application. No party disputed the applicability of the Handy Whitman or GDP indices to properly inflate the capital costs. Indeed, one is forced to conclude that the Handy Whitman and GDP indices were the kind of inflation indices envisioned by the General Assembly in enacting the Base Load Review Act.

However, the Applicant seeks to increase its capital costs beyond its actual costs adjusted by authorized inflationary indices by proposing to increase the cost of all components of capital costs by certain contingency costs and other adjustments. The

Applicant's request exceeds the authority granted the Commission by the Base Load Review Act.

## **6. Contingency Costs**

The Applicant requests that the Commission recognize \$392,004,000 in contingency costs associated with plant costs. Please see Exhibit F, Chart A to Application at line designated "Contingency (2007 \$)". The Applicant asks the Commission to recognize an additional \$46,289,000 in contingency costs associated with transmission projects. Please see Exhibit F, Chart A to Application at line designated "Contingency" found under the "Transmission Projects" category. These amounts are not authorized by the Base Load Review Act. (Figures made public by Commission.)

These contingency costs are calculated, according to the Applicant, by reference to certain risk assumptions found on Application Exhibit I, Chart A. Each plant cost category and each owner's cost category set out on Exhibit I, Chart A is assigned a risk assumption ranging from a low of 5 percent to a high of 20 percent. Using the risk assumptions, the Applicant increased its plant and transmission costs by the contingency percentage. There is no explanation or justification of the method in which these risk assumptions were calculated in this record as required by Section 58-33-270(B)(6). By way of example, certain plant components are identified as "fixed with no adjustment." The Applicant proposes to increase the actual cost of these components by 5 percent (Exhibit I, Chart A). However, the risk assumptions are not authorized inflation indices under the Base Load Review Act.

In addition, the Applicant proposes to increase these unauthorized contingency costs, which are calculated in 2007 dollars, to allow for some measure of inflation. The

Applicant proposes to inflate these contingency costs by an additional \$132,610,000 as a component of capital costs. Please see Exhibit F, Chart A to the Application at line designated “Contingency Escalation” - figure made public by Commission. These inflated contingency costs are not authorized by the Base Load Review Act. Together the unauthorized contingency costs and contingency escalation total \$570,903,000.

Please see the table below excerpting certain public portions of Exhibit F, Chart A to the Application as a reference for this discussion.

Exhibit F, Chart A

ANTICIPATED CONSTRUCTION SCHEDULE

Combined application of South Carolina Electric & Gas Company for a  
Certificate of Environmental Compatibility and Public Convenience and  
Necessity and for a Base Load Review Order

(Thousands of \$)

V.C. Summer Units 2 and 3 – Summary of SCE&G Capital Cost Components

<u>Plant Cost Categories</u>	<u>Total</u>
Fixed with Adjustment	Confidential
Firm with Fixed Adjustment A	Confidential
Firm with Fixed Adjustment B	Confidential
Firm with Indexed Adjustment	Confidential
Actual Craft Wages	Confidential
Non-labor Costs	Confidential
Time & Materials	Confidential
Owners Costs	Confidential
 Total Unescalated Project Costs	 Confidential
Project Cost Escalation	1,098,590
Contingency (2007 \$)	392,004
Contingency Escalation	132,610
 Total Net Cash Flow	 5,411,067
 <u>Transmission Projects</u>	
Total Unescalated Project Costs	Confidential
Contingency	46,289
Escalation	<u>283,140</u>
Total Net Cash Flow	638,020
 Total Project Cash Flow	 6,049,087
 Cumulative Project Cash Flow	
AFUDC (Capitalized Interest)	<u>264,289</u>
Gross Construction	6,313,376
Construction Work in Process	

There is absolutely no explanation or justification of the methodology employed to calculate the risk assumptions and resulting contingency costs requested in the application. Nor does this record offer a basis upon which this Commission can analyze validity of the risk assumptions and resulting contingency costs.

The statute permits the Applicant to adjust its capital costs for inflation. However, the statute specifically sets out the proof required of the Applicant to adjust

capital costs for inflation by authorized inflation indices established in this record. The Applicant has failed to justify these contingency costs under the Base Load Review Act, and therefore, these contingency costs and contingency escalation costs totaling \$570,903,000 should be disallowed by the Commission and not included as authorized capital costs in the base load order.

However, eliminating these contingency costs and contingency escalation costs alone is not sufficient to fully eliminate the unauthorized contingency costs from the application. Applicant witness Best testified that the contingency costs and contingency escalation costs were added to the total unescalated project costs (or actual costs) before those figures were adjusted for inflation by the authorized Handy Whitman and GDP indices (Best testimony page 1727, line 21 - page 1728, line 9). Thus the unauthorized contingency costs and contingency escalation costs totaling \$570,903,000 have been inflated by the authorized inflation indices. Therefore, the "Project Cost Escalation" amount of \$1,098,590,000 found on Exhibit F Chart A to the application includes inflated contingency costs. In calculating the total authorized project cost escalation, or authorized inflation costs, the Commission must eliminate any amounts representing inflation of unauthorized contingency costs and contingency escalation costs. In so doing, the Commission will determine those inflation costs authorized by the Base Load Review Act.

## **7. Adjustments A and B**

The cost of two categories of capital cost components are also increased by fixed adjustments. The cost of plant components characterized as Firm with Fixed Adjustment A and Firm with Fixed Adjustment B is based upon actual cost of the components which

is then increased by a confidential percentage (Adjustment A and B). The Applicant asserts that it is likely that these component costs will increase over the life of the contract. Therefore, the Applicant and Stone & Webster have negotiated fixed percentages by which the costs of these components will be increased until the components are installed and paid for. Although the fixed adjustments are provided for by contract, the Applicant offers no methodology justifying the adjustment. The Applicant fails to tie the cost increase to an inflation index and offers no other justification as permitted under Section 58-33-270(B)(6); therefore, the cost increase proposed by Adjustments A and B are not authorized by statute. The Base Load Review Act does not require the Commission to approve the contract costs, but rather to approve the capital costs authorized by statute. Therefore, the Commission must eliminate any such increase calculated by the confidential percentage from the actual cost of the plant components. Only the actual cost of the plant components characterized as Fixed with Firm Adjustment A and Fixed with Firm Adjustment B may be included in the base load review order as capital costs. Because the Applicant does not propose to inflate the cost of these components by the Handy Whitman Inflation Index or by some other inflation index authorized by statute and established in this record, the actual costs of these plant components may not be adjusted for inflation by the Applicant.

The Commission's order shall establish the anticipated components of capital costs as adjusted by inflation indices supported by statute and the record. The contingency costs, the contingency escalation and the percentage adjustments requested are neither actual costs nor costs adjusted for inflation in accordance with the Base Load



Review Act. Consequently, the contingency costs and Adjustments A and B should not be included as capital costs in the base load review order.

## **8. Allocation and Audit**

The Applicant requested revised rates resulting in additional revenue of \$8,986,000. After reductions recommended by SCEUC and ORS, the revenue generated by revised rates, if granted, would be reduced by \$1,183,509 or a reduction of 13 percent from the revenue requested in the Application.

The ORS, after auditing the actual construction work in progress, found that the additional revenue thereby justified was \$8,271,484.

In addition, the Applicant failed to allocate any portion of the proposed plant costs or revenue requirement to its wholesale customers. Please see direct testimony of SCEUC witness Kevin W. O'Donnell and ORS witness A. Randy Watts. As a result, the Applicant has overstated the revenue requirement to its retail customers and its requested revised rates are excessive. By properly allocating proposed plant costs and revenue requirements to SCE&G's wholesale customers, the revenue increase requested would be reduced to \$7,802,491.

The proper allocation between customer classes and the ORS audit recommendation result in a retail revenue requirement of \$7,802,491 or an amount 13.2 percent less than SCE&G requested in its Application. The Applicant concedes both points (Jackson rebuttal testimony at page 2, line 17 through page 3, line 8).

## **9. Total Plant Costs**

After persistent questioning by Friends of the Earth, the Applicant's witness Addison testified that if the authorized cost of construction of the nuclear plants exceeded

\$4,799,036,000, the Applicant would be forced to petition the Commission for an order modifying any base load review order issued in this docket requesting to recover any additional prudent capital costs as permitted by the Base Load Review Act (Please see Hearing Exhibit number 37). The witness Addison was responding to a line of questioning from Friends of the Earth seeking to establish the Applicant's uppermost cost of construction of both nuclear plants. The Applicant's witness arrived at the \$4.8 billion figure by subtracting from gross construction, project cost escalation, contingency escalation, and transmission escalation. The Applicant's witness did not go far enough. The ceiling figure of \$4.8 billion also includes the unauthorized proposed contingency costs of \$392,004,000 and transmission contingency costs of \$46,289,000. By eliminating these unauthorized contingency figures from the capital costs, the ceiling is thereby reduced to \$4,360,743,000. In addition, the unauthorized contingency costs and contingency escalation costs, as stated above, have been inflated by the Applicant's authorized inflation indices and are embedded in the authorized inflation figures. These costs must be likewise removed from the authorized inflation costs. Assuming conservatively the actual cost of each capital component was increased by only 5 percent by Applicant's risk assumptions, an additional \$55 million of unauthorized revenue to be eliminated from the allowable cost of capital. Of course, the cost of the capital components were all increased by different risk assumptions and all such unauthorized costs must be eliminated from the Application, resulting in a figure much greater than \$55 million.

### **Conclusion**

Based on the foregoing, the South Carolina Energy Users Committee would request that the Commission issue any base load review order consistent with the provisions of the Base Load Review Act and if granted by the Commission, authorize only those schedules, estimates, and projections adjusted by the authorized inflation indices established in this record.

Respectfully submitted this the 30th day of January, 2009.

A handwritten signature in black ink, appearing to read "Scott Elliott", written over a horizontal line.

Scott Elliott, Esquire  
Elliott & Elliott, P.A.  
721 Olive Street  
Columbia, SC 29205  
803-771-0555  
803-771-8010  
[selliott@elliottlaw.us](mailto:selliott@elliottlaw.us)

Attorney for South Carolina Energy  
Users Committee

Columbia, SC

ORIGINAL

## CERTIFICATE OF SERVICE

The undersigned employee of Elliott & Elliott, P.A. does hereby certify that (s)he has served below listed parties with a copy of the pleading(s) indicated below by mailing a copy of same to them in the United States mail, by regular mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

RE: Combined Application of South Carolina Electric & Gas Company for a Certificate of Environmental Compatibility and Public Convenience and Necessity and for a Base Load Review Order for the Construction and Operation of a Nuclear Facility at Jenkinsville, South Carolina  
Docket No. 2008-196-E

### PARTIES SERVED:

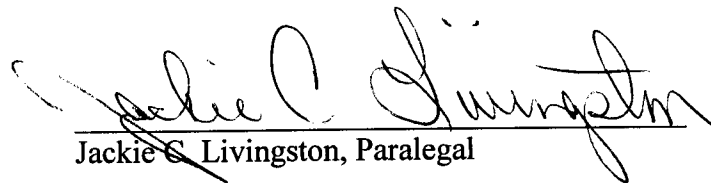
Belton T. Zeigler, Esquire Pope Zeigler, LLC P. O. Box 11509 Columbia, SC 29211	Nanette S. Edwards, Esquire Office of Regulatory Staff 1441 Main Street, Suite 300 Columbia, SC 29201
Shannon Bowyer Hudson, Esquire Office of Regulatory Staff 1441 Main Street, Suite 300 Columbia, SC 29201	K. Chad Burgess, Esquire Willoughby & Hoefer, P.A. 1426 Main Street, Mail Code 130 Columbia, SC 29201
Damon E. Xenopoulos, Esquire Brickfield Burchette Ritts & Stone, PC 1025 Thomas Jefferson St., NW 8 <sup>th</sup> Floor, West Tower Washington, DC 20007	E. Wade Mullins, III, Esquire Bruner Powell Robbins Wall & Mullins, LLC P. O. Box 61110 Columbia, SC 29260
Maxine Warshauer 3526 Boundbrook Lane Columbia, SC 29206	Joseph Wojcicki 820 East Steele Road West Columbia, SC, 29170
Lawrence P. Newton 57 Grove Hall Lane Columbia, SC, 29212	Mildred A. McKinley 2021 Carroll Drive West Columbia, SC, 29169
Pamela Greenlaw 1001 Wotan Road Columbia, SC, 29229	Robert Guild, Esquire Friends of the Earth 314 Pall Mall Columbia, SC, 29201
Ruth Thomas 1339 Sinkler Road Columbia, SC, 29206	David L. Logsdon SC Department of Commerce 1201 Main Street, Suite 1600 Columbia, SC, 29201
John V. Walsh, Deputy State Highway Engineer SC Department of Transportation	Roger Stroup, Director SC Department of Archives and History 8301 Parklane Road

Post Office Box 191 Columbia, SC, 29202	Columbia, SC, 29221
David Owen SC Forestry Commission Post Office Box 21707 Columbia, SC, 29221	Carlisle Roberts , Esquire SC Department of Health and Environmental Control Legal Department 2600 Bull Street Columbia, SC, 29201
John Frampton, Director SC Department of Natural Resources 1000 Assembly Street Columbia, SC, 29201	Chad Prosser, Director SC Department of Parks, Recreation and Tourism 1205 Pendleton Street Columbia, SC, 29201
Honorable Gregrey Ginyard, Mayor Town of Jenkinsville 366 Lakeview Drive Jenkinsville, SC , 29065	Mitchell Willoughby, Esquire Willoughby & Hoefer, P.A. Post Office Box 8416 Columbia, SC, 29202

PLEADING:

MEMORANDUM OF THE SOUTH CAROLINA  
ENERGY USERS COMMITTEE

January 30, 2009

  
Jackie C. Livingston, Paralegal